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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,597	03/19/2004	Rodney Kern	92/D97-035C	9552
34431 7590 08/22/2008 HANLEY, FLIGHT & ZIMMERMAN, LLC 150 S. WACKER DRIVE SUITE 2100 CHICAGO, IL 60606				
EXAMINER				
REDMAN, JERRY E				
ART UNIT		PAPER NUMBER		
3634				
MAIL DATE		DELIVERY MODE		
08/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,597

Applicant(s)

KERN ET AL.

Examiner

Jerry Redman

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30, 31, 55, 58-66 and 70-73 is/are pending in the application.
- 4a) Of the above claim(s) 55, 58-66, and 70-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30, 31 and 73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The status of the claims is as follows:

Claims 1-29, 32-54, 56, 57, and 67-69 have been cancelled;

Claims 55, 58-66, and 70-72 are hereby withdrawn from consideration;

and

Claims 30, 31, and 73 are herein addressed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 31, and 73 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (6,187,411) in view of Jaster et al., (5,347,755). Palmer ('411) discloses panel (50) having flexible fabric covering (column 3, lines 16-17, column 4, lines 63-64), a foam core (10, column 4, line 43), and a plurality of rigid segments. Palmer ('411) fails to disclose the panel to be actuated between an open and closed position to cover an opening. Jaster et al. ('755) disclose a door actuating system which moves panels horizontally to cover an opening within a wall. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the flexible door panel of Palmer ('411) with a drive system as taught by Jaster ('755) since a drive system allows the panel to be moved between two positions.

Claims 30, 31, and 73 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Jaster et al. (5,347,755) in view of Palmer (6,187,411). Jaster et al.,

('755) disclose a door actuating system comprising a door panel (1) moved between an open and closed position. Jaster et al., ('755) fail to disclose the panel to be flexibly reinforced and covered with a fabric. Palmer ('411) discloses panel (50) having flexible fabric covering (column 3, lines 16-17, column 4, lines 63-64), a foam core (10, column 4, line 43), and a plurality of rigid segments. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Jaster et al. ('755) with a flexible panel as taught by Palmer ('411) since a flexible panel allows the panel to be distorted without losing its material properties.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. The applicant argues "relaxed shape" and "recoverable from an impact" which are broad recitations and functional statements. For example, anything from a mesh screen to a solid piece of steel would have a "relaxed shape" and would be "recoverable from an impact" per se. How big of an impact? Furthermore, the applicant argues "relatively rigid segments" which is also broadly recited. Again, it appears that the applicant is relying on phraseology which can be broadly interpreted.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jerry Redman
Primary Examiner
Art Unit 3634

/Jerry Redman/
Primary Examiner, Art Unit 3634